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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,176	12/21/2000	William James Morrison	AUS920000765US1	2913
35525	7590	09/19/2006		
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380				
			EXAMINER THEIN, MARIA TERESA T	
			ART UNIT 3627	PAPER NUMBER

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/746,176	<b>Applicant(s)</b> MORRISON ET AL.	
	<b>Examiner</b> Marissa Thein	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-17,19-33 and 35-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-17, 19-33, 35-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's "Response to Office Action" filed on July 6, 2006 has been considered.

Claims 2, 18, and 34 are cancelled. Claims 1, 8, 17, 24, 33, 38-48 are amended. Claims 1, 3-17, 19-33, and 35-48 are pending in this application and an action on the merits follows.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3-17, 19-33, and 35-48 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention.**

**Evidence of public use of the invention more than one year prior to Applicant's earliest priority date of December 23, 2000 is provided as follows. The website [www.opensite.com](http://www.opensite.com) (website OpenSite) October 1999; the article "Packaged Apps Give Auctioneers Rich New Options" (Packaged, Opensite) March 25, 1998; the article "OpenSite Auction 4.0 Guide" (Opensite Auction 4.0) May 1999; and the article "Opensite: Bidstream.com help Web auctions flow more easily" (Opensite: Bidstream.com) (September 2, 1999) are herein referred to as OpenSite.**

**This evidence, taken as whole, shows that the invention, as claimed, was in “public use” more than one year prior to December 23, 2000.**

**The Examiner notes that the website www.Opensite.com (pages 43-61) and the article “packaged Apps give Auctioneers Rich New Options” refer to OpenSite Auction Version 3.0 software, while the article “OpenSite Auction 4.0 Guide” refers to Opensite Auction Version 4.0 software builds onto the past previous release of software and adds new features. The article “OpenSite: Bidstream.com help Web auctions flow more easily” refers to a software that is built directly into OpenSite Auction software called Bidstream.com.**

Regarding claims 1, 3, 9, 13-17, 19, 25, 29-33, 35, 41, and 45-48, Opensite discloses a method in an electronic auction for permitting simultaneous submission of bids on multiple different items (“*website Opensite*”, page 45), wherein said plurality of different items is offered for auction using different ones of a plurality of auction types (“*Opensite Auction 4.0*”, page 5), wherein at least two different ones of said plurality of auction types are utilized when simultaneously displaying said plurality of different items using said single screen image (“*Opensite: Bidstream.com*”, paragraph 2, BidStream includes M Items which enables bidders to monitor multiple auctions on different sites, on one page); simultaneously displaying, at a computer network, using a single screen image, plurality of different items offered for auction (“*website Opensite*”, AuctionWatch Screen, page 45; Screen, page 53); permitting entry of a different bid for each of a plurality of said plurality of different items (“*Packaged, Opensite*”, enables bidders to place multiple bids for multiple items from a single page; paragraph 9); and

Art Unit: 3627

simultaneously submitting, over said computer network, each said different bid for each of said plurality of said plurality of different items from said single screen image (*"website OpenSite"*, AuctionWatch, page 45). Opensite discloses interactive auction (*"website Opensite"*, eAuctioneer, page 46; Bidder's Interface with eAuctioneer, pages 53-54) (claims 3, 19, and 35). Opensite further discloses: receiving said different bid submitted for each of said plurality of said plurality different items (*"website Opensite"*, AuctionWatch Screen, page 45; Screen, page 53; MultiBid page 45); and simultaneously displaying a confirmation of said different bid submitted for each of said plurality of said plurality of different items using a second single screen image (*"website Opensite"*, Bidder's Interface with eAuctioneer, pages 53-54 58) (claims 9, 25, and 41); the step of permitting entry of a proxy (*"website Opensite"*, AutoBid, page 55) (claims 13, 29, and 45); the step of simultaneously submitting said bid for each of said plurality of said plurality of different items (*"website Opensite"*, MultiBid page 45) and said proxy for at least one of said plurality of said plurality of different items (*"website Opensite"*, AutoBid, page 55) (claims 14, 30, and 46); the step of simultaneously displaying a plurality of different offerings offered for auction, wherein an offering includes one or more items (*"website Opensite"*, Screen, page 53; Item counts, page 54) (**claims 15, 31, and 47**); and selecting a plurality of said plurality of different offerings to displays to a particular user, and simultaneously displaying, only the selected plurality of said plurality of different offerings (**claims 16, 32, and 48**) (*"website Opensite"*, AuctionWatch Screen, page 45; Screen, page 53; AuctionWatch page 55).

Regarding claims 4-5, 7, 20-21, 23, 36-37, and 39, Opensite teaches single auction (sealed bid) ("*Opensite Auction 4.0*", Sealed Bid Auctions, page 5); and priced auction ("*Opensite Auction 4.0*", page 5).

Regarding claims 6, 8, 22, 24, 38, and 40, Opensite discloses displaying and offering in a single screen image a first, second, and third plurality of different items for auction ("*Opensite: Bidstream.com*", paragraph 2, BidStream includes M Items which enables bidders to monitor multiple auctions on different sites, on one page) using a single auction ("*Opensite Auction 4.0*", Sealed Bid Auctions, page 5); a priced auction ("*Opensite Auction 4.0*", page 5); and an interactive auction ("*website Opensite*", eAuctioneer, page 46; Bidder's Interface with eAuctioneer, pages 53-54).

Regarding claims 10-12, 26-28, and 42-44, Opensite discloses simultaneously submitting a different bid for each one of a first plurality of said plurality of different items and submitting a modification, canceling, or revising for each one of a second plurality of said plurality of different items ("*website Opensite*", Parcel bidding, page 56; Bidder's Interface with eAuctioneer, pages 53-54; Reserve Bids, page 46; Delete Erroneous Bids to enable customer bids to be deleted, page 55; Bid Increments, page 56).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-17, 19-33, and 35-48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot  
September 14, 2006

  
F. RYAN ZEENDER  
PRIMARY EXAMINER

9/14/06